

COMMERCE

Convention signed at Washington January 20, 1883, with protocols of January 15, 16, and 20, 1883, and January 17, February 11, and May 20 and 26, 1884^{1 2}

*Senate advice and consent to ratification, with amendments, March 11, 1884*³

Ratified by Mexico May 14, 1884

*Ratified by the President of the United States, with amendments, May 20, 1884*³

Ratifications exchanged at Washington May 20, 1884

*Entered into force May 20, 1884*¹

Proclaimed by the President of the United States June 2, 1884

*Supplemented by additional articles of February 25, 1885,⁴ and May 14, 1886*⁵

24 Stat. 975; Treaty Series 223

The United States of America and the United States of Mexico, equally animated by the desire to strengthen and perpetuate the friendly relations, happily existing between them, and to establish such commercial intercourse between them as shall encourage and develop trade and good will between their respective citizens, have resolved to enter into a commercial convention. For this purpose the President of the United States of America has conferred full powers on Ulysses S. Grant and William H. Trescot, citizens of the United States of America, and the President of the United States of Mexico has conferred like powers on Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of Mexico at Washington, and on Estanislao Cañedo, citizens of the United States of Mexico;

And said Plenipotentiaries, after having exchanged their respective full powers, which were found to be in due form, have agreed to the following articles:

¹ The convention was never operative since the legislation required by art. VIII was not adopted by the United States.

² For schedules appended to arts. I and II, see 24 Stat. 976 and 978 or pp. 2 and 4 of TS 223.

³ For text of United States amendments, see protocol 6, p. 863.

⁴ TS 227, *post*, p. 868.

⁵ TS 230, *post*, p. 872.

ARTICLE I

For and in consideration of the rights granted by the United States of Mexico to the United States of America, in article second of this convention, and as an equivalent therefor, the United States of America hereby agree to admit, free of import duties whether Federal or local, all the articles named in the following schedule,⁶ into all the ports of the United States of America, and into such places on their frontier with Mexico, as may be established now or hereafter as ports of entry by the United States of America, provided that the same be the growth and manufacture or produce of the United States of Mexico.

ARTICLE II

For and in consideration of the rights granted by the United States of America in the preceding article of this convention, and as an equivalent therefor, the United States of Mexico hereby agree to admit free of duties whether Federal or local, all the articles named in the following schedule,⁶ the same being the growth, manufacture, or produce of the United States of America, into all the ports of the United States of Mexico and into such places on their frontier with the United States of America as may be established now or hereafter as ports of entry by the United States of Mexico.

ARTICLE III

The Government of the United States of Mexico, shall have the power to issue such laws, rules, regulations, instructions and orders, as it may deem proper to protect its revenues and prevent fraud in order to prove that the merchandise included in the above schedule annexed to article second of this convention, are produced or manufactured in the United States of America, and therefore are entitled to importation free of duty, into the Mexican ports or such places on the frontier between Mexico and the United States of America, as are previously established as ports of entry by the Government of Mexico.

The Government of the United States of Mexico shall have moreover the power to amend, modify, or amplify the laws and regulations issued in exercising the power conferred by this article, whenever it deems proper to do so in order to protect its revenues and prevent fraud.

ARTICLE IV

The Government of the United States of America shall have the power to issue such laws, rules, regulations, instructions and orders as it may deem proper to protect its revenues and prevent fraud, in order to prove that the merchandise included in the above schedule attached to the first article of

⁶ See footnote 2, p. 855.

this convention are produced or manufactured in the United States of Mexico, and therefore are entitled to importation, free of duty, into the ports of the United States of America or such places on the frontier between the United States of America and the United States of Mexico as are previously established as ports of entry by the Government of the United States of America.

The Government of the United States of America shall have moreover the power to amend, modify or amplify the laws and regulations issued in exercising the power conferred by this article, whenever it may deem proper to do so in order to protect its revenues and prevent fraud.

ARTICLE V

The stipulations contained in the first and second articles of this convention will not prevent either of the contracting parties from making such changes in their import duties as their respective interests may require, granting to other nations the same liberty of rights in regard to one or more of the articles of merchandise named in the schedules annexed to the first and second articles, either by legislation or by means of treaties with other Governments. But in case such changes are made, the party affected by the same may denounce this convention even before the term specified in Article IX., and the present convention will be terminated at the end of six months, from the day on which such notification may be made by the respective country.

ARTICLE VI

It is further agreed by the contracting parties that neither of them shall charge any duty for the transit of the above said articles of merchandise through its own territory, provided that they are intended to be consumed in the same territory.

ARTICLE VII

Notwithstanding, either of the contracting parties may impose duties of transit upon any kind of merchandise, passing through its territory and destined to be consumed in the territory of another country.

ARTICLE VIII ⁷

The present convention shall take effect as soon as it has been approved and ratified by both contracting parties, according to their respective constitutions; but not until the laws and regulations that each shall deem necessary to carry it into operation, shall have been passed both by the Government of the United States of America and by the Government of the United Mexican

⁷ For amendments to arts. VIII and X, see protocol 6, p. 863.

States, which shall take place within twelve months from the date of the exchange of ratifications to which Article X. refers.

ARTICLE IX

Upon the present convention taking effect, it shall remain in force for six years from the date in which it may come into operation, according to the foregoing article, and shall remain in force until either of the contracting parties shall give notice to the other of its wish to terminate the same, and until the expiration of twelve months from the date of said notification. Each of the contracting parties is at liberty to give such notice to the other at the end of said term of six years, or any time thereafter, or before as provided in Article V. of this convention.

ARTICLE X⁷

The ratifications of the present convention shall be duly exchanged at the city of Washington within twelve months from the date hereof, or earlier if possible.⁸

In faith whereof the respective plenipotentiaries of the high contracting parties have signed the present convention and have affixed thereto their respective seals.

Done in duplicate at the city of Washington this twentieth day of January A. D. one thousand eight hundred and eighty-three.

U. S. GRANT [SEAL]

WM. HENRY TRESBOT [SEAL]

M. ROMERO [SEAL]

E. CAÑEDO [SEAL]

PROTOCOL 1

WASHINGTON, *Saturday, January 20, 1883*

The Commissioners met, and upon further discussion the United States Commissioners consented to accept Article V. as submitted by the Mexican Commissioners.

The remaining articles of the treaty were considered and, the treaty signed, with the following agreement:

Whereas the Mexican Commissioners state that although in their instructions the word steel (*acero*) is omitted from the item No. (35) 66 of the list of merchandise of the United States to be admitted into Mexico, free of duty, appended to article 2 of the said treaty, which reads as follows: "Tools and instruments of iron, brass, or wood, or composed of these articles, for

⁸ For an extension of time for exchange of ratifications, see protocol 2, p. 859.

artisans," they doubt whether this omission is intentional or casual, and have consulted about it by the cable with their Government; and

Whereas the United States Commissioners assert that if tools wholly or partly of steel for the use of artisans be excluded from the benefits of the treaty, the item in question is practically of no value as a concession to the United States.

Therefore, the Commissioners hereby agree that the treaty is signed by them subject to the correction in the aforesaid item of the word "steel," so that "tools of iron, steel, brass, or wood," &c., shall be specified, if it shall be found that the omission was unintentional on the part of Mexico; and further, that if the omission be found to have been intentional the right shall be, and hereby is, reserved to the President of the United States of America to withhold the said treaty from the Senate, and to regard the same as not representing a true agreement between the respective Commissioners.

U. S. GRANT

WM. HENRY TRESGOT

M. ROMERO

E. CAÑEDO

PROTOCOL 2

Agreement signed the 17th day of January, 1884, between Frederick T. Frelinghuysen, Secretary of State of the United States of America, and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico

Whereas, pursuant to the tenth article of the Treaty between the United States of America and the United States of Mexico of the 20th of January, 1883, it was stipulated that the ratifications of that Treaty should be exchanged at the City of Washington within twelve months from the date thereof or earlier, if possible;

And whereas, it may be impossible to exchange the ratifications within the time so fixed, the President of the United States of America has invested Frederick T. Frelinghuysen, Secretary of State of the United States of America with full power; and the President of the United States of Mexico has invested Matias Romero, Envoy Extraordinary and Minister Plenipotentiary, at Washington, with like power, who having met and examined their respective powers, which were found to be in proper form, have agreed upon the following:

ADDITIONAL ARTICLE

It is agreed that the time limited in the tenth article of the Treaty between the United States of America and the United States of Mexico, of January 20, 1883, for the exchange of the ratifications of that instrument, shall

be and is hereby extended to the 20th day of May next. The present additional article shall be ratified, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof we the respective Plenipotentiaries have signed the same, and have hereunto affixed our respective seals.

Done in duplicate at the City of Washington, the 17th day of January in the year of our Lord one thousand eight hundred and eighty-four.

FREDK. T. FRELINGHUYSEN [SEAL]

M. ROMERO [SEAL]

PROTOCOL 3

Protocol of an Agreement signed this 11th day of February 1884, between Frederick T. Frelinghuysen, Secretary of State of the United States of America and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico

The undersigned, duly authorized thereto by their respective Governments, and with the purpose of correcting an error of translation in the text of the Commercial Convention between the United States of America and the United States of Mexico signed in the city of Washington on the 20th day of January 1883, hereby agree and declare:

That the English word *berries*, found in the 18th (24th) item of the schedule of Mexican articles to be admitted duty free into the United States of America contained in Article I. of said Convention, shall be held to have its equivalent in fact, for all purposes of the execution of said convention in the Spanish word *bayas* instead of the Spanish word *cerezas* which appears by error in the Spanish text of said Convention as signed.

This agreement shall be attached to and proclaimed with said Convention.

In witness whereof we have subscribed and sealed this Agreement, in the English and Spanish languages, in the city of Washington this 11th day of February, 1884.

FREDK. T. FRELINGHUYSEN [SEAL]

M. ROMERO [SEAL]

PROTOCOL 4

The Commissioners, Ulysses S. Grant and William H. Trescot, on the part of the United States, and Matias Romero and Estanislao Cañedo, on the part of Mexico, met at the State Department at 1 o'clock, January 15, 1883.

Upon submitting to each other their respective powers, the Commissioners of the United States called to the attention of the Commissioners of Mexico that while the powers of the former were full, the powers of the latter were confined to the execution of such a Treaty as was prescribed in their instructions, and as these instructions were unknown to the United States Commissioners, the powers could scarcely be considered "like and equal."

The Mexican Commissioners said they proposed to communicate their instructions, and, at the request of the United States Commissioners, consented to attach them to their powers as part thereof.

As these instructions referred to a draft of a treaty in possession of the Mexican Commissioners as representing the views of the Mexican Government, it was agreed that the treaty should be read.

It was accordingly read, article by article.

Upon the reading of the first article, the United States Commissioners stated that complaints had been made that merchandise going from the United States into Mexico and subject to duty was not only so taxed at the port of entry, but was subject to extra taxation imposed upon the border line of every State of the Mexican Republic through which it might pass. They wished to know whether the condition of Mexican law, taken in connection with the language of this article, exempting goods on the free list from all "taxation whether Federal or local", was such as to secure these goods from local taxation.

The Mexican Commissioners said:

"That section I. of article 112 of the Federal Constitution of the United States of Mexico provides that the States cannot levy any tax upon tonnage or any other port duty, or upon imports and exports unless they are authorized to do so by the Federal Congress. That the Federal Congress has not authorized the States to levy any tax upon imports and exports, and could not give any such authority if this project became a treaty, so far as the articles embraced in Article 2 of the treaty are concerned.

"That, therefore, if any State should attempt to collect any tax on said articles, or any other foreign articles, in Mexico, the interested parties could apply to the proper courts and have the wrong remedied in accordance with the Mexican laws."

Having considered Articles 1 and 2, with the respective free lists, the Commission adjourned to meet on Tuesday, the 16th instant, at 10 o'clock.

U. S. GRANT

W.M. HENRY TRESCOT

M. ROMERO

E. CAÑEDO

PROTOCOL 5

WASHINGTON, *Tuesday, January 16, 1883*

The Commissioners met at 10 o'clock.

The reading of the articles of the treaty draft was renewed.

In connection with Articles 3 and 4, the United States Commissioners suggested that, without making any alteration in the substance of the articles, it would be desirable if some concert could be had in the establishment of such customs regulations as might be found necessary for proof of the character of the merchandise made free under the provisions of the Treaty; and they considered it important that the official examination of such merchandise once made at the port of original entry should be sufficient to carry such goods to their point of destination without further examination.

The Mexican Commissioners said that the Mexican Government was now endeavoring to modify its customs regulations; that a Commissioner was appointed to come to the United States to examine the customs regulations between the United States and Canada, who has reported favorably upon the adoption of that system, and that a Commission was now sitting in Mexico for the revision of the tariff, and would probably adopt that system; that the introduction and development of railroads would require a change in the present system, and that they had no doubt some plan would be devised by which goods could be carried under bond to their point of final destination; that, as they had explained before, no separate State had the right to levy taxes upon imports without the consent of the Federal Congress, and that goods declared free, having once passed the custom house of original entry, or having arrived at the place of destination, if the bond system was adopted, would not need any further justification.

The remaining articles of the draft, with the exception of Article 5, were then read, and in some respects modified.

Article V. was then read.

The United States Commissioners submitted a modification by which the free lists were made the exclusive privilege of the contracting parties during the term of the existence of the treaty—six years.

After a very full discussion, the Mexican Commissioners said that they were not authorized to accept the modification; and the United States Commissioners replied that under their instructions they were not authorized to accept the article without some modification.

The subject was referred for further discussion to the next meeting.

The Commission then adjourned to meet on Wednesday, January 17, at 11 o'clock.

U. S. GRANT

WM. HENRY TRESCOT

M. ROMERO

E. CAÑEDO

PROTOCOL 6

Protocol of a Conference held at the Department of State in the city of Washington the 20th day of May 1884, between Frederick T. Frelinghuysen, Secretary of State of the United States of America and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico

Whereas a Treaty of Commerce was concluded between the United States of America and the United Mexican States and signed by their respective Plenipotentiaries at Washington on the 20th day of January 1883;

And whereas, the Senate of the United States by their Resolution of the 11th of March 1884 (two-thirds of the Senators present concurring) did advise and consent to the ratification of the said Treaty and the Protocols thereto with the following amendments:

Amend Article eight so as to read as follows:

"The present convention shall take effect as soon as it has been approved and ratified by both contracting parties, according to their respective constitutions; but not until laws necessary to carry it into operation, shall have been passed both by the Congress of the United States and the Government of the United Mexican States, and regulations provided accordingly, which shall take place within twelve months from the date of the exchange of ratifications to which Article ten refers."

Article ten, line three, strike out the word "twelve" and insert in lieu thereof the word "sixteen."

And whereas the said Treaty with acceptance of said amendment was ratified by the Senate of the United States of Mexico on the 14th day May, 1884.

And whereas the Treaty has been ratified by both Governments, but the Mexican exchange copy, although on its way to Washington, has not yet arrived, it is agreed that this Protocol shall have the effect of an exchange of ratifications when complemented by a formal exchange to take place upon

the arrival of the Mexican copy, and this Protocol to take effect only on the arrival of the Mexican copy of the Treaty, and then, as of to-day, when another Protocol shall be signed reciting the substance of this.

In witness whereof we have hereunto set our hands and seals.

FREDK. T. FRELINGHUYSEN [SEAL]

M. ROMERO [SEAL]

PROTOCOL 7

Whereas, upon the 20th day of May, 1884, a protocol of a Conference held at the Department of State in the City of Washington, was signed, which provided that as the Treaty between the United States of America and the United Mexican States, signed at Washington on the 20th day of January, 1883, had been ratified by both Governments; but the Mexican Exchange Copy, although on its way to Washington had not then arrived, it was agreed that the protocol should have the effect of an exchange of ratifications when complemented by a formal exchange, to take place upon the arrival of the Mexican copy, the protocol to take effect only on the arrival of the Mexican copy of the Treaty, and then as of its date, when another protocol should be signed citing the substance of the protocol of May 20;

And whereas the Mexican copy of the Treaty has now arrived, and the respective ratifications of said Treaty have been carefully compared and found conformable, the undersigned ratify and confirm the Protocol of May 20th, hereinbefore referred to.

In testimony whereof they have hereunto set their hands and affixed their seals at Washington this twenty-sixth day of May in the year one thousand eight hundred and eighty-four.

FREDK. T. FRELINGHUYSEN [SEAL]

M. ROMERO [SEAL]